

RECOMMENDING THE ACT OF OCTOBER 15, 1966 (80 STAT. 915), AS AMENDED, ESTABLISHING A PROGRAM FOR THE PRESERVATION OF ADDITIONAL HISTORIC PROPERTY THROUGHOUT THE NATION, AND FOR OTHER PURPOSES

APRIL 10, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 999]

[Including the cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 999) to amend the Act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic property throughout the Nation, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Amend the title so as to read:

To reauthorize the Advisory Council on Historic Preservation.

PURPOSE

The purpose of H.R. 999¹ is to reauthorize the Advisory Council on Historic Preservation.

BACKGROUND

Established under the 1966 National Historic Preservation Act, the Advisory Council on Historic Preservation, an independent federal agency, provides advice to the President and the Congress on historic preservation policy. The Advisory Council reviews and comments on both federal and federally-assisted activities that

¹ H.R. 999 was introduced on February 9, 1989 by Mrs. Boggs (for herself and Mr. Cheney).

affect historic properties. It also provides a regulatory function for this nation's historic preservation program.

The Advisory Council on Historic Preservation prepares special reports and studies, provides technical assistance and professional guidance on historic preservation, reviews and comments on proposed federal policies and procedures. It also has a compliance function, commenting on federal actions that could affect historic properties. When federal agencies and the respective state historic preservation offices disagree, the Advisory Council on Historic Preservation serves as a referee.

The authorization for the Advisory Council on Historic Preservation expires on September 30, 1989. H.R. 999 amends the National Historic Preservation Act to reauthorize the Advisory Council for five years through 1994 at the same level of appropriations (\$2.5 million).

COMMITTEE AMENDMENTS

The Committee made no amendments to the text of H.R. 999 but recommends that the title be amended to more clearly describe the purpose of the bill. The recommended title is as follows: "A Bill to Reauthorize the Advisory Council on Historic Preservation and for other purposes".

SECTION-BY-SECTION ANALYSIS

H.R. 999 amends the National Historic Preservation Act by extending the authorization for the Advisory Council on Historic Preservation from 1989 to 1994. The Committee heard testimony that praised the Advisory Council on Historic Preservation for its work, its responsiveness and its ability to assist federal agencies. Witnesses stated that the Council is crucial to the efficacy of Section 106 of the National Historic Preservation Act. The Committee agrees with testimony that the independence and autonomy of the Advisory Council is essential to its effectiveness and should not be changed.

Several issues emerged in the hearing that need further consideration by the Administration. The National Historic Preservation Act directs that federal agencies, prior to undertaking actions that could affect historic properties, to take into account the effect of their actions and afford the Council a reasonable opportunity to comment on the undertaking. The Committee is very concerned that agencies do not adequately fulfill these responsibilities; that they do not bring the Advisory Council into the process in a timely manner; and that they do not always fully respond to formal comments from the Council. The Committee instructs the Advisory Council to review its regulations for their effectiveness and to make recommendations for their improvement, especially in ways to increase agency coordination and compliance. The Committee also directs the Advisory Council to work with the Department of Justice to more clearly define the process of handling intergovernmental differences on Section 106.

LEGISLATIVE HISTORY AND COMMITTEE RECOMMENDATIONS

A hearing on H.R. 999 was held by the Subcommittee on National Parks and Public Lands on March 7, 1989. The bill was favorably recommended to the Committee on Interior and Insular Affairs on March 21, 1989. The Committee on Interior and Insular Affairs favorably reported H.R. 999 to the House by voice vote on April 5, 1989.

OVERSIGHT STATEMENT

The Committee intends to carefully monitor the implementation of this legislation to ensure compliance with the intent of the Act, but no specific oversight hearings have been conducted on this matter. No recommendations were submitted to the Committee pursuant to Rule X, clause 2(b)(2).

INFLATIONARY IMPACT STATEMENT

The Committee finds that enactment of this measure would have no inflationary impact on the national economy.

COST AND BUDGET ACT COMPLIANCE

The Committee has determined that only a minimal increase in the Federal expenditure will result from enactment of this bill. The report of the Congressional Budget Office which the Committee adopts as its own, follows:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 999.
2. Bill title: A bill to reauthorize the Advisory Council on Historic Preservation, and for other purposes.
3. Bill status: As ordered reported by the House Committee on Interior and Insular Affairs, April 5, 1989.
4. Bill purpose: H.R. 999 would extend the authority of the Advisory Council on Historic Preservation to carry out its functions under the Act of October 15, 1966. For this purpose, the bill would authorize the appropriation of up to \$2.5 million for each of fiscal years 1990 through 1994.

In recent years, appropriations to the council have been between \$1.5 million and \$1.8 million. The Administration's request for fiscal year 1990 is about \$1.8 million.

5. Estimated cost to the Federal Government:

[By fiscal year, in million of dollars]

	1990	1991	1992	1993	1994
Authorization level.....	2.5	2.5	2.5	2.5	2.5
Estimated outlays.....	2.3	2.5	2.5	2.5	2.5

The costs of this bill fall within budget function 300.

Basis of Estimate: For purpose of this estimate, CBO has assumed that H.R. 999 will be enacted before the beginning of fiscal year 1990 and that the full amounts authorized will be appropri-

ated for each fiscal year. Outlays have been estimated on the basis of historical spending patterns for the salaries and expenses account of the advisory council.

6. Estimated cost to State and local governments: None.
7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Deborah Reis.
10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

DEPARTMENTAL REPORT

The report of the Department of the Interior, dated March 24, 1989, follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, March 24, 1989.

Hon. MORRIS K. UDALL,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: This responds to your request for our views on H.R. 999, "To amend the Act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic property throughout the Nation, and for other purposes."

H.R. 999 would extend the funding authorization for the Advisory Council on Historic Preservation through fiscal year 1994. We support reauthorization of the Advisory Council.

The National Historic Preservation Act of 1966 was prompted by the increasing pace of destruction of historic sites, buildings, archeological resources, and other physical aspects of the Nation's cultural heritage. Much of this destruction was being caused by Federal or Federally aided projects, such as highways, dams, airports, and urban renewal. In working for a legislative remedy, some favored an approach that would categorically forbid projects harming historic properties. In the end, a wiser approach prevailed. The 1966 Act established not a prohibition, but a process—a process whereby Federal agencies would have to consider the effects of their undertakings on historic properties and allow review of those undertakings by an objective party.

That party was and is the Advisory Council on Historic Preservation, established by the Act as a vital component of this protective process. The Council does not seek to force preservation in every instance; rather, it seeks to help agencies meet their legal responsibility to consider historic property values in their project planning and to see that such values are weighed in the overall calculation of the public interest.

Through the consultative procedure established by the Council's regulations, most adverse effects of most Federal undertakings are avoided or mitigated to the satisfaction of all interested parties.

The Department of the Interior and the Advisory Council have worked hand in hand to make Federal agencies aware of the many ways in which historic preservation can be not only compatible

with their missions but also a positive advantage carrying out their missions. Together, we have helped agencies to understand that the requirements of historic preservation law are not onerous and not unreasonable. One by one, agencies that initially had difficulty understanding how historic preservation could apply to them have come to be colleagues. The interagency composition of the Advisory Council has been an essential element in this transformation.

This among other reasons, is why we support reauthorization of the Advisory Council. If preservation decisions are not to be preordained in law but reached upon consideration of the merits of particular projects and affected properties, an independent arbiter is essential. The Council's record of fostering sound Federal decision-making in this regard is excellent. We urge that it be allowed to continue.

The Office of Management and Budget (OMB) has advised that the program covered by this legislative proposal is included in the residual freeze category of the President's fiscal year 1990 budget plan. For the Advisory Council, this is \$1,795,000, which reflects President Reagan's fiscal year 1990 budget request. Final decisions concerning programs in this category are to be determined through negotiations between Congress and the Administration, and thus the current \$1,795,000 may need to be revised to reflect the results of such negotiations.

OMB has further advised us that there is no objection to the presentation of this report from the standpoint of the President's program.

Sincerely,

BECKY NORTON DUNLOP,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF OCTOBER 15, 1966 (80 STAT. 915) AS AMENDED (16 U.S.C. 470t)

* * * * *

SEC. 212. (a) The Council shall submit its budget annually as a related agency of the Department of the Interior. [To carry out the provisions of this title, there is authorized to be appropriated not more than \$2,500,000 for each of the fiscal years 1985 through 1989] *There are authorized to be appropriated not to exceed \$2,500,000 in fiscal years 1990 through 1994.*

(b) Whenever the Council submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources.

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